

### REMARKS

Claims 1-18 and 31 are pending in the present application. The following rejection s remain at issue: Claims 1-18 are rejected under 35 U.S.C. §103(a), as allegedly obvious over Cook et al. (U.S. Patent No. 5,760,082) in view of Cain et al. (WO97/18320) and Baltes, et al. (U.S. 3,162,658).

With respect to the obviousness rejection, Applicants have amended the claims to specify that the conjugated linoleic acid ester composition comprises less than 1% total 8,10 octadecadienoic acids, 11,13 octadecadienoic acids, and trans-trans octadecadienoic acids. The cited prior art references do not teach this limitation. A *prima facie* case of obviousness requires the Examiner to cite a combination of references which (a) disclose the elements of the claimed invention, (b) suggests or motivates one of skill in the art to combine those elements to yield the claimed combination, and (c) provides a reasonable expectation of success should the claimed combination be carried out. Failure to establish any one of the these three requirements precludes a finding of a *prima facie* case of obviousness, and, without more, entitles Applicant to allowance of the claims in issue.<sup>1</sup> In addressing this rejection, Applicants focus on the independent claims since non-obviousness of an independent claim necessarily leads to non-obviousness of claims dependent therefrom.<sup>2</sup> Applicants respectfully submit that a *prima facie* of obviousness has not been established because the cited references do not teach each element of the claims.

### CONCLUSION

All grounds of rejection been addressed, reconsideration of the application is respectfully requested. It is respectfully submitted that the invention as claimed fully meets all requirements and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 662-1277.

Dated: December 10, 2009

/J. Mitchell Jones/

J. Mitchell Jones, Reg. No.: 44,174  
Casimir Jones, S.C.  
2275 Deming Way, Suite 310  
Middleton WI 53562  
(608) 662-1277

---

<sup>1</sup> See, e.g., *Northern Telecom Inc. v. Datapoint Corp.*, 15 USPQ2d 1321, 1323 (Fed. Cir. 1990).

<sup>2</sup> §MPEP 2143.03.